



**COMMONWEALTH OF VIRGINIA
DEPARTMENT OF MEDICAL ASSISTANCE SERVICES**

APPEAL DECISION SUMMARY

APPEAL No: 2011-0246

DATE: April 13, 2011

OUTCOME: (check one)

☐ SUSTAINED ☐ REVERSED ☒ REMANDED
☐ INVALID/FULL
☐ SUSTAINED and REMANDED
☐ REVERSED and REMANDED
☐ AGENCY ERROR/OTHER

ISSUE ON APPEAL: Eligibility –ABD –excess resources

GENERAL RULE OF LAW: Standards for resource eligibility

1. United States Code, 42 U.S.C. § 1396a(a)(17)(B) requires a state plan for medical assistance to include:

reasonable standards . . . for determining eligibility for and the extent of medical assistance under the plan which . . . (B) provide for taking into account only such income and resources as are . . . available to the applicant or recipient.

2. The State plan must specify that . . . in determining financial eligibility of individuals, the agency will apply the cash assistance financial methodologies and requirements, unless the agency chooses to apply less restrictive allowable income and resource methodologies. If the agency chooses to apply less restrictive income and resource methodologies, the State plan must specify the less restrictive methodologies that will be used, and the eligibility groups to which the less restrictive methodologies will be applied. Code of Federal Regulations, 42 CFR §435.601, (f).
3. As a program based on need, Medicaid uses the value of a person's countable resources as one of two financial criteria in determining eligibility. The other criterion is income. Medicaid Manual, Volume XIII, M1110.001, A (p. 1).
4. The Eligibility Worker must verify the following financial eligibility requirements:
 - The value of all countable, non-excluded resources;
 - All earned and unearned income, and
 - Asset transfer information for individuals in need of long-term care services, including the date of transfer, asset value, and compensation received.

Medicaid Manual, Volume XIII, M0130.200, H (p. 8).

5. Eligibility with respect to resources is a determination made for each calendar month, beginning with the third month prior to the month in which the application is received. Resource eligibility exists for the full month if countable resources were at or below the applicable resource limit for any part of the month. M1110.001, B, 1 (p. 1).
6. Resources are cash and any other personal or real property that an individual owns, or has the power to convert to cash and is not legally restricted from using for his support and maintenance. Medicaid Manual, Volume XIII, S1110.100, B, 1, (p. 3).
7. Liquid resources are any resources in the form of cash or in any other form which can be converted to cash within 20 workdays. Absent evidence to the contrary, we assume that checking and savings accounts are liquid resources. Medicaid Manual, Volume XIII, S1110.300, A, 1, (p. 8); S1110.305, B, 1, (p. 8).
8. Assume that the person designated as owner in the account title owns all the funds in the account. In the case of joint accounts, assume that all funds in the account belong to the individuals in equal shares. Medicaid Manual, Volume XIII, M1140.200, A, 1 (p. 16); S1140.205, B, 1, 2 (p. 19).
9. Absent evidence to the contrary, assume that the person shown as owner in the account title has the legal right to withdraw funds from the account. Absent evidence to the contrary, assume that an individual who owns and has the legal right to withdraw funds from a bank account also has the legal right to use them for his or her own support and maintenance. Medicaid Manual, Volume XIII, M1140.200, A, 2, 5 (p. 16).
10. When a Medicaid recipient or applicant has a joint bank account with another individual, deposits made to the account by other account holders or interest posted to the account are income to the Medicaid recipient. Medicaid Manual, Volume XIII, S0810.130, A (p. 13).
11. If a Medicaid recipient successfully rebuts ownership of a portion of funds in a joint account, deposits made by the other account holder are not income to the Medicaid recipient. Interest is counted to the Medicaid recipient in proportion to the percentage of funds that are a resource to the recipient. Medicaid Manual, Volume XIII, M0810.130, B, 2 (p. 13).
12. Individuals must be informed of the applicable ownership assumption; corresponding income implications; and of his or her right to provide evidence rebutting the ownership assumption, if he or she disagrees with it. Medicaid Manual, Volume XIII, S1140.205, C, 1 (p. 19).
13. If an individual wishes to rebut the applicable ownership assumption, obtain his or her statement, regarding:
 - Who owns the funds;
 - Why there is a joint account
 - Who has made deposits to and withdrawals from the account; and
 - How withdrawals have been spent

Medicaid Manual, Volume XIII, S1140.205, C, 2 (p. 20).

14. The countable value of a bank account is the lower of the balance before income is added, or the ending balance minus any income added during the month. Funds cannot be both income and a resource in the same month. Income that has been added to a bank account during the month must be subtracted from the ending balance to ensure that the income is not also counted as a resource. Medicaid Manual, Volume XIII, M1110.600, B, 3 (p. 18); M1140.200, B, 5 (p. 18).
15. It is important to distinguish between resources and income to know which counting rules to use for any given month. An item is not subject to both income and resources counting rules in the same month. Items received during a month are evaluated under the income-counting rules. Items retained as of the first moment of the month following receipt are subject to evaluation under resource-counting rules. Medicaid Manual, M1120.005, A, B, 1, 2 (p. 1).
16. The value of any asset that meets the definition of a resource counts against the applicable resource limit, unless otherwise excluded. Medicaid Manual, Volume XIII, S1110.200 (p. 6).
17. An applicant who reduces excess resources during the month of application or a subsequent month before action is taken on the application may become eligible in the month in which the value of his resources is reduced to, or below, the Medicaid resource limit. In order to reduce resources, the resources must actually be expended and the expenditure documented. (For example: a receipt, a canceled check, or a bank statement). When excess resources are reduced, entitlement to ongoing Medicaid may begin no earlier than the first day of the month in which the resources were reduced to the Medicaid limit. Medicaid Manual, Volume XIII, M1510.102, C (p. 8).
18. The resource limit for one person in the Categorically Needy, Categorically Needy Non-Money Payment, and Medically Needy covered groups is \$2,000. Medicaid Manual, Volume XIII, M1110.003, B, 2, (p. 2).
19. An individual with countable resources in excess of the applicable limit is not eligible for Medicaid. Medicaid Manual, Volume XIII, M1110.003, B, 1 (p. 2).
20. An individual must provide verifications of most Medicaid eligibility requirements. Before taking action on the application, the applicant must be notified in writing of the required information. The Eligibility Worker must allow at least 10 days to receive the necessary verifications, but additional time may be allowed depending on the type of information requested. The specific information requested and the deadline for receipt of the verifications must be documented in the case record. Medicaid Manual, Volume XIII, M0130.200, B (p. 4).

AGENCY DECISION: The hearing officer remanded the case to the agency, based upon the following:

The Appellant applied for Medicaid, and claimed resources on the application. The agency made errors when completing the resource evaluation. Since the local agency did not follow correct procedures when determining the Appellant's resource eligibility, the hearing officer remanded the case for further evaluation.

Applicable Law/Regulations/Policy

United States Code

42 U.S.C. §1396a (a)(17)(B)

Code of Federal Regulations

42 CFR §435.601, (f)

Medicaid Manual, Volume XIII

M0130.200, B (p. 4)

M0130.200, H (p. 8)

S0810.130, A, B, 2 (p. 13)

M1110.001, A, B, 1 (p. 1)

M1110.003, B, 1, 2, (p. 2)

M1110.100, B, 1, (p. 3)

S1110.200 (p. 6)

S1110.300, A, 1 (p. 8)

S1110.305, B, 1, (p. 8)

M1110.600, B, 3 (p. 18)

M1120.005, A, B, 1, 2 (p. 1)

M1140.200, A, 1, 2, B, 5 (p. 16, 18)

M1140.205, B, 1, 2, 5, C, 1, 2 (pp. 18-20)

M1510.102, C (p. 8)